

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 10/057,896

REMARKS

A total of 18 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed December 20, 2004, wherefore reconsideration of this application is requested.

By way of the above-noted amendments, claims 1, 7, 8, 10, 11, 14, 18, 19, 21, 22 and 24 have been amended to more clearly define features of the present invention. In particular, independent claim 1 has been amended to emphasize that the aggregate optical signal is received, and subjected to a wavelength dependent (i.e. dispersive) delay, before the respective predetermined spreading code of an optical data signal is detected. Similar revisions have been implemented in independent claim 14. Dependent claims 4-6 and 15-17 have been cancelled, and claims 7, 8, 10, 11, 18, 19, 21, 22 and 24 have been amended in light of the revisions effected in independent claims 1 and 14.

In preparing the above-noted amendments, careful attention was paid to ensure that no new subject matter has been introduced. In particular, independent claims 1 and 14 have been amended to define that "a wavelength-dependent delay [is imposed] on the received aggregate optical signal". Support for this feature is found in figures 7 and 8, and the accompanying description at paragraphs 39 and 40 of the originally filed specification.

Referring now to the text of the Office Action:

- claims 1-3, 8-10, 14, 19-21 stand rejected under 35 U.S.C. § 102(b), as being unpatentable over the teaching of United States Patent No. 5,513,029 (Roberts);
- claims 11-12, 22 and 23 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 5,513,029 (Roberts) in view of United States Patent No. 6,111,676 (Lemus et al.);
- claims 4-7 and 16-18 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 5,513,029 (Roberts) in view of United States Patent No. 5,349,606 (Lovell et al.) and
- claims 13 and 24 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 10/057,896

As an initial matter, applicant appreciates the Examiner's indication of allowable subject matter in claims 13 and 24. The Examiner's rejections of claims 1-12 and 14-23 are believed to be traversed by the above-noted claim amendments, and further in view of the following discussion.

The present invention provides an SRS-immune optical performance monitoring method and system, in which "an aggregate optical signal containing an optical data signal" is received. The aggregate optical signal contains "an optical data signal transported through a respective one of the channels [of the DWDM communications system], the optical data signal [having been] modulated by a respective predetermined spreading code. A "wavelength-dependent delay [is imposed] on the received aggregate optical signal", and "a modulation power of the respective predetermined spreading code" is then detected. Finally, "an optical power of the optical data signal [is estimated] using the detected modulation power of the respective predetermined spreading code". (see amended claims 1 and 14).

None of the cited references teaches or suggests this combination of features. More particularly, none of the cited references teaches or suggests imposing a wavelength-dependent delay on the received aggregate optical signal, prior to detecting a spreading code of an optical data signal within the aggregate signal. United States Patent No. 5,349,606 (Lovell et al) teaches a series of "time delayers" between the PM code generator and each correlator, for providing respective delays to the PN code. However, Lovell et al do not teach or suggest imposing a wavelength-dependent delay (that is, chromatic dispersion) to the received aggregate signal. None of the other references supply the missing teaching.


In light of the foregoing, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teaching of the cited references, taken alone or in any combination. Thus it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 10/057,896

extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account
No. 19-5113.

Respectfully submitted,


By: Kent Daniels, P.Eng.
Reg. No. 44206
Attorney for the Applicants

Date: March 21, 2005

Ogilvy Renault
Suite 1600
1981 McGill College Avenue
Montreal, Quebec
Canada, H3A 2Y3
(613) 780-8673